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Message Text

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APPROVED BY: EB/IFD/OIA:MKENNEDY
OPIC/F:JCULMAN
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EA/IMS:ADORNHEIM (SUBS)
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P 132222Z FEB 74
FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA PRIORITY

UNCLAS STATE 029814

PASS USAID RLA CLARK

E.O. 11652: NXA
TAGS: EFIN
SUBJ: P.T. DARALAN

REF: A. STATE 008205; B. JAKARTA 1434

1. THANK YOU FOR EFFORTS ON FORECLOSURE AGREEMENT.

2. ON FEB. 6, 1974 MHT DISBURSED U.S. DOLS 1,300,000.

3. AGREE THAT FURTHER DISCUSSIONS WITH BNI APPEAR FRUITLESS. THEREFORE PLEASE APPROACH OTHER PROSPECTIVE AGENTS AS OUTLINED PARA 8 REF B.

4. WILL RELY ON YOUR JUDGEMENT WHETHER FINCONESIA IS APPROPRIATE. WOULD APPEAR TO US WITH BNI AND MHT BACKING THAT FINCONESIA MIGHT BE SUITABLE SINCE MHT BROUGHT BNI INTO PICTURE IN THE FIRST PLACE. IF FINCONESIA BECAME AGENT BNI WOULD STILL SET SOME OF THE AGENCY BUSINESS AND, PRESUMABLY, SUFFICIENT EXPERTISE.

5. WE WOULD LIKE TO AVOID CONFLICTS OF INTEREST ON PART OF AGENT
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BETWEEN DUTIES AS AGENT AND POSSIBLE CREDITOR. OUR FIRST PRIORITY

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IS COMPETENCE REGARDLESS OF CONFLICT OF INTEREST. WE CONCUR IN
YOUR ASSESSMENT THAT ASEAM WOULD LEND TO DARALON ONLY IF DARALON
FINANCIALLY HEALTHY. OUR CONCERN IS THAT IF DARALON GOT INTO
TROUBLE, THE SENIOR SECURED LENDERS' OBJECTIVES AND ASEAM'S AS
UNSECURED (BUT SENIOR LENDER OR SUBORDINATED LENDER) MIGHT
NOT BE PARALLEL.

6. TO REDUCE FORECLOSURE AGREEMENT DUTIES OF AGENT; WE SUGGEST
THE FOLLOWING:

(A) AGENT WILL ONLY HAVE THE DUTIES REFERRED TO AT PARA 2 (C)
(III) OF REF (A) THAT IS, TO TAKE ACTION ON INSTRUCTIONS OF SECURED
LENDERS, TO OBTAIN MORTGAGE UNDER POWER OF ATTORNEY, TO TAKE JUDICIAL
OR ADMINISTRATIVE ACTION, TO PROTECT SECURED LENDERS WHEN
NECESSARY, AND TO FORECLOSE ON PROPERTY COVERED BY CSD'S. IF
POTENTIAL AGENT REQUESTS MORE DETAIL, GET MKK'S ASSISTANCE IF
NECESSARY.

(B) THE ROUTINE SERVICES SPECIFIED AT PARA 2(C)(II) OF REF (A)
SHOULD BE PERFORMED BY UTOMO MULIA, DARALON'S OUTSIDE AUDITOR, IN
CONNECTION WITH ITS ANNUAL AUDITS. IN ADDITION TO CERTIFICATES
FROM THE COMPANY, WE WOULD LIKE UTOMO MULIA TO DETERMINE AND CERTIFY
TO THE SECURED LENDERS THAT DARALON HAS POSSESSION AND TITLE TO
ALL PROJECT PROPERTY COVERED BY THE CSD'S, REPORTING ANY CHANGES
IN SUCH STATUS SINCE ITS LAST CERTIFICATE. PLEASE CHECK WHETHER UTOMO
MULIA WILL BE ABLE TO
DO THIS.

7. WE ARE REQUIRING EXECUTION OF CSD'S PRIOR TO NEXT MHT DRAWDOWN
WHICH WE UNDERSTAND DARALON WANTS QUICKLY.

8. PLEASE PASS COPY OF THIS TELEGRAM TO MKK. KISSINGER

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